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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

ADOPTION

MULTI-COUNTY: TAHOE CITY PUBLIC UTILITY DISTRICT

A written comment period has been established commencing on **September 18, 2009**, and closing on **November 2, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Ivy Sevilla, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Direc-

tor of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **November 2, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Ivy Sevilla, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission

should be made to Ivy Sevilla, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. OFFICE OF THE INSPECTOR GENERAL

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE OFFICE OF THE INSPECTOR GENERAL

NOTICE IS HEREBY GIVEN that the Office of the Inspector General, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Office of the Inspector General proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

The purpose of this amendment is to add to the Conflict-of-Interest reporting categories, the positions of Career Executive Assignments (CEAs), Business Services Officer, and Training Officer within the Office of the Inspector General, remove certain reporting positions such as Special Assistant Inspectors General and Deputy Inspectors General, Senior, and make other technical changes to reflect the current organizational structure of the Department. Copies of the amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than November 2, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than November 2, 2009, by contacting the Contact Person set forth below.

The Office of the Inspector General has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.

3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Office of the Inspector General must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Samuel Dudkiewicz
Chief Deputy Inspector General (A)
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834

(916) 830-3600

TITLE 2. STATE TREASURER'S OFFICE

NOTICE OF PROPOSED RULEMAKING ACTION

State Treasurer's Office

Title 2, Chapter 4, Division 2 Subchapter 5, Sections 1899.570 to 1899.585 California Code of Regulations

NOTICE IS HEREBY GIVEN that the State Treasurer's Office, authorized to receive and keep state money, bonds, and other securities and to disburse money upon the presentment of validly issued state warrants pursuant to Government Code section 12300, et seq., proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. As relevant to this rulemaking, the Treasurer is required to pay warrants drawn by the State Controller and further to

pay registered warrants, commonly referred to as IOUs, in conformity with the law. (See Government Code sections 12324, 17210 and 17271.)

PROPOSED REGULATORY ACTION

The State Treasurer proposes to adopt Sections 1899.570 through 1899.585 of Title 2 of the California Code of Regulations (the "Regulations"). The Regulations implement the Treasurer's responsibilities related to the redemption of registered warrants issued by the State Controller.

AUTHORITY AND REFERENCE

Authority: Government Code sections 17210 and 17271. Provides that the Treasurer is the state official responsible for redeeming registered warrants.

Reference: Government Code section 17210. Provides that the Treasurer must pay registered warrants in conformance with the law.

Government Code section 17271. Provides that the Treasurer must pay any registered warrant with a maturity date on that date out of any unapplied money available in the General Fund.

Government Code section 17273. Provides that the Treasurer must publish a notice meeting certain requirements when registered warrants are redeemable.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides a mechanism by which the State Controller may issue a registered warrant where the amount of unapplied funds in the General Fund is insufficient to cover the warrant. Existing law further establishes certain criteria for registering warrants, issuing registered warrants, establishing maturity dates for registered warrants, setting interest rates for registered warrants, and ultimately, redeeming warrants once the designated maturity date has arrived or sufficient unapplied funds are available. As relevant here, existing law provides that it is the responsibility of the State Treasurer to redeem registered warrants in conformance with the law. However, the statutes are relatively silent with respect to some of the mechanical aspects of the redemption process.

The proposed regulations address a number of components for redeeming registered warrants including providing notice to the public and requirements where individuals holding registered warrants wish to redeem them.

OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

No other matters prescribed by statute are applicable to the State Treasurer's Office or to any specific regulation or class of regulations pursuant to section 11346.5(a)(4) of the California Government Code pertaining to the proposed regulations or to the State Treasurer's Office.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The State Treasurer has determined that the Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

The State Treasurer has determined that the Regulations do not impose any additional costs or savings requiring reimbursement under Section 17500, et al., of the Government Code, any other non-discretionary costs or savings to any local agency, or any costs or savings in federal funding to the State. Pursuant to the State Administrative Manual, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no costs or savings to any State Agency pursuant to Section 11346.5(a)(6) of the Government Code.

INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The State Treasurer has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. While there is a cost associated with notarizing a bill of sale where a registered warrant holder sells the warrant to a third party, such cost is minimal for two reasons. First, there has been very little "trading" of registered warrants to third parties. Second, the cost to notarize a bill of sale is ten dollars.

EFFECT ON SMALL BUSINESSES

The State Treasurer has determined that the adoption of the Regulations will not affect small business. The

Regulations do not place any required additional costs on small businesses. Although a small business may have to pay for notarization of a bill of sale where the small business sells a registered warrant to a third party, it would only occur where the small business chooses to sell the registered warrant. No small business is required by these regulations to sell a registered warrant to a third party. In addition, the cost in such circumstances is minimal.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Regulations impose a minimal cost in very limited circumstances. If a holder of a registered warrant wishes to sell the warrant to a third party prior to the redemption date, the third party, if an individual and not a specified financial institution, would need to include a notarized bill of sale with the registered warrant when presented for redemption. The cost for notarization is ten dollars. Based on information received by the Treasurer's Office during the current period when registered warrants have been issued, it does not appear that a significant number of holders of registered warrants sold their warrants to individual third parties.

ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

The State Treasurer has determined, pursuant to Government Code section 11346.3(b), that the Regulations will not have an effect on jobs and business expansion, elimination or creation.

COST IMPACT ON HOUSING

The Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Treasurer must determine that no reasonable alternative to the Regulations considered by the State Treasurer or that has otherwise been identified and brought to the attention of the State Treasurer would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations.

The State Treasurer invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON

Written comments, inquiries and any questions regarding the substance of the Regulations shall be submitted or directed to:

Mark Paxson, General Counsel
State Treasurer's Office
915 Capitol Mall
Sacramento, CA 95814
(916) 653-2995

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Mark Hariri, Director
Cash Management Division
State Treasurer's Office
915 Capitol Mall
Sacramento, CA 95814
(916) 653-2917

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to the State Treasurer's Office. The written comment period on the Regulations will end at 5:00 p.m. on November 9, 2009. All comments must be submitted in writing to the Agency Contact Person identified in this Notice by that time for them to be considered by the State Treasurer. In the event that changes are made to the Regulations during the written comment period, the State Treasurer will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to Title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS

Pursuant to the California Government Code, the State Treasurer has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the State Treasurer's Office at 915 Capitol Mall during normal business hours. As of the date this Notice is published in

the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. This address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on the State Treasurer's website at <http://www.treasurer.ca.gov>.

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the State Treasurer at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the Hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, the State Treasurer may adopt the Regulations substantially as described in this Notice, without further notice. If the State Treasurer makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through the State Treasurer's website described above) for at least fifteen (15) calendar days before the State Treasurer adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The State Treasurer is required to prepare a Final Statement of Reasons pursuant to Government Code section 11346.9. Once the State Treasurer has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on the State Treasurer's website described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

Title 16. BOARD OF CHIROPRACTIC EXAMINERS.

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "board") is proposing to amend regulations described in the Informative Digest below. A public hearing has not been scheduled for the proposed action; however, any interested person or such person's duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code section 11346.8. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received in the board's office no later than 5:00 p.m. on November 2, 2009. The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1000-4(b) and 1000-10 of the Business and Professions Code; and the Chiropractic Initiative Act of California Stats. 1923. lxxxviii., and to implement, interpret or make specific Section 1000-4(b) of said Code, the board is considering changes to Title 16, Division 4, of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Chiropractic Initiative Act Section 1000-4(b) authorizes the board to adopt as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

Amend Section 314:

CCR section 314 requires licensees to report alleged law violations to any member of the board. This regulation was adopted prior to 1949 presumably as a mechanism to alert the board to alleged law violations. Although this regulation was relevant at the time of adoption, today it is in conflict with the Administrative Procedures Act's (APA) provisions concerning ex-parte communications.

This proposal would require licensees to report alleged law violations directly to the executive officer or

his or her designee, rather than a board member. This proposal is necessary to ensure that board members may review disciplinary cases and serve as the final decision makers in the administrative disciplinary process. It is further necessary to amend CCR to ensure that the board is consistent with the APA.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The board initially determined that the proposed regulation would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

Effect on Small Business:

The board has determined that this regulatory proposal will not have an effect on small businesses/licensees as it makes minor changes to the provisions to require licensees to report alleged law violations directly to the executive officer rather than board members. The proposal does not place additional requirement on small businesses/licensees.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burden-

some to affected private persons than the proposal described in this Notice.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all of the information upon which the proposal is based, may be obtained upon request from the board at 2525 Natomas Park Drive, Suite 260, Sacramento, California.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site, www.chiro.ca.gov.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: April Alameda, Program Analyst
Address: 2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
Telephone: (916) 263-5329
Fax: (916) 263-5369
E-mail: aalameda@chiro.ca.gov

Back-up Contact person:

Name: Linda Shaw, Acting Executive Officer
Address: 2525 Natomas Park Drive, Suite 260
Sacramento, California 95833
Telephone: (916) 263-5360
Fax: (916) 263-5369
E-mail: chiro.info@chiro.ca.gov

Web Site Address: Materials regarding this proposal can be found at www.chiro.ca.gov.

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE TABLES OF MAXIMUM INCREMENTAL REACTIVITY (MIR) VALUES

The Executive Officer of the California Air Resources Board (Board or ARB) will conduct a public hearing at the time and place noted below to consider amendments to the Tables of Maximum Incremental Reactivity (MIR) Values.

DATE: November 3, 2009

TIME: 9:00 a.m.

PLACE: California Environmental Protection
Agency
Air Resources Board
Sierra Hearing Room
1001 I Street
Sacramento, California 95814

This hearing will be conducted by the Executive Officer or an individual designated by him pursuant to the authority set forth in sections 39515 and 39516 of the Health and Safety Code. The agenda for the hearing will be available at least 10 days before November 3, 2009.

If you require a special accommodation or need this document in an alternate format or language, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed amendments to sections 94700 and 94701, title 17, California Code of Regulations (CCR).

Background:

The Regulation for Reducing the Ozone Formed from Aerosol Coating Products (the "Aerosol Coating Products Regulation;" sections 94520-94528, title 17, CCR) contains limits that restrict the ozone-forming potential of volatile organic compounds (VOC) found in aerosol coatings. These VOC limits rely on the reactivity values contained in the Tables of Maximum Incremental Reactivity (MIR) Values (sections 94700 and 94701, title 17, CCR). The ARB staff also use these Tables for several other purposes, such as modeling for the State Implementation Plan and the fuels program.

At its June 22, 2000, public hearing, the Board approved the Table of MIR Values, which became legally effective on July 18, 2001. In Resolution 00-22, which approved the rulemaking action, the Board directed the Executive Officer to periodically review the MIR values to determine if modifications to the MIR values are warranted. The Board also delegated to the Executive Officer the authority to adopt regulatory amendments to the Tables of MIR Values, and to conduct public hearings and take other appropriate actions to make such amendments. This delegation of authority allows the Executive Officer (or his/her delegate) to conduct these activities on behalf of the multi-member Board, as provided in Health and Safety Code sections 39515 and 39516.

The existing Tables of MIR Values were calculated using the SAPRC-99 chemical mechanism for ozone formation that was developed by Dr. William Carter at the University of California, Riverside. The Tables of MIR Values are contained in two sections of title 17, CCR. Section 94700 contains the MIR values for individual reactive organic compounds. Section 94701 contains the MIR values for different types of hydrocarbon solvents.

Revisions to the Tables of MIR Values were adopted at an Executive Officer hearing on December 3, 2003. In this rulemaking, 102 new compounds with their associated MIR values were added to section 94700. Most of these compounds are those Dr. Carter added into his tabulation of MIR values while making assignments for the SAPRC-99 mechanism for various emissions inventories. MIR values for 14 existing compounds listed in section 94700 were also amended. These updated MIR values were also based on research conducted by Dr. Carter. These amendments became legally effective on June 7, 2004.

In accordance with the Board's direction to ensure continued use of the best science in ARB's regulations, ARB funded research by Dr. Carter to update the SAPRC-99 chemical mechanism. That research led to the development of an improved chemical mechanism for ozone formation, called SAPRC-07. Dr. Carter's experimental work enabled the determination of MIR values for hundreds of additional VOCs, and revealed that some compounds need significant changes to their MIR values. Based on Dr. Carter's review, MIR values would change by about 12 percent overall. For 70 percent of the VOCs, MIR values would change by less than 20 percent. However, for 16 of the VOCs, MIR values would change by more than 60 percent.

An external scientific peer review is required by California Health and Safety Code Section 57004 for the scientific portion of the proposed amendments, including the updated MIR values. After extensive peer review, the ARB's Reactivity Scientific Advisory Com-

mittee (RSAC) reviewed and approved the scientific basis of the MIR values proposed by Dr. Carter.

Description of the Proposed Regulatory Action

Staff is proposing amendments to the Tables of MIR Values contained in sections 94700 and 94701, title 17, CCR. Section 94700 sets forth the MIR values for various organic compounds and mixtures. Section 94701 sets forth the MIR values for different types (“bins”) of hydrocarbon solvents, based on the average of their mean boiling ranges, aromatic content, and alkane content.

Staff is also proposing to update the MIR values for all compounds that are currently listed in section 94700, and to add hundreds of new compounds with their associated MIR values. A new column labeled “New MIR Value [Effective Date]” will be added to section 94700 to display the updated MIR values for the currently listed compounds, as well as the MIR values for the newly added compounds.

A change in methodology for calculating MIR values for 24 different bins of hydrocarbon solvents (contained in section 94701, title 17, CCR) is also proposed. This change in methodology enables the convenient recalculation of bin MIR values whenever the underlying chemical mechanism is updated. In addition, the new SAPRC-07 mechanism provides updated MIR values for the hydrocarbon constituents. Using these sources of information, Dr. Carter re-calculated the MIR values for these 24 bins. Accordingly, ARB staff proposes to update the MIR values contained in section 94701.

Although staff proposes to update the MIR values for all the existing compounds currently listed in section 94700 and the 24 hydrocarbon mixtures in section 94701, it should be noted that the MIR values dated July 18, 2001 must continue to be used by aerosol coating manufacturers. When the aerosol coatings regulation was developed, to provide stability to manufacturers as MIR values are updated to reflect improved science, the regulation specifies that the MIR values dated July 18, 2001 are to be used and those values are not to change until June 1, 2007 [see § 94523(h)(2)(A)]. The exception to this is that any new compounds added in subsequent amendments to the Tables of MIR Values can be used once legally effective [see § 94523(h)(2)(B)]. The 2007 date was put into the regulation to provide manufacturers a minimum timeframe in which the MIR values would remain the same.

The MIR values dated July 18, 2001, were also used as the basis for the reactivity limits for aerosol coating products. To ensure that the air quality benefits continue to be preserved it is important that the same set of MIR values are used both for the VOC reactivity limits and calculation of PWMIR. Therefore, while we are proposing to amend the Tables of MIR Values, the MIR val-

ues dated July 18, 2001, must continue to be used by aerosol coatings manufacturers until such time as the Aerosol Coatings Regulation is amended. However, any new compound proposed for addition to the Table in this rulemaking, with its associated MIR value, can be used.

COMPARABLE FEDERAL REGULATIONS

Effective June 23, 2009, the U.S. Environmental Protection Agency (EPA) adopted a rule setting national VOC emission standards for aerosol coatings. The rule included a table of compounds, and their corresponding reactivity factors, that are used to manufacture aerosol coatings. This national regulation was modeled after the ARB’s Regulation for Reducing Ozone Formed from Aerosol Coating Product Emissions, and established a uniform reactivity-based standard for aerosol spray paints. U.S. EPA’s adopted reactivity factors are consistent with the existing values used in the ARB’s aerosol coatings regulation.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Proposed Amendments to the Tables of Maximum Incremental Reactivity (MIR) Values.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on ARB’s website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on November 3, 2009.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on ARB’s website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons in the Research Division: Ralph Proper, at (916) 323-1535 or Dr. Dongmin Luo, Manager, Air Quality and Climate Science Section, at (916) 324-8496.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Lori Andreoni, Manager, Board

Administration and Regulatory Coordination Unit, (916) 322-4011, and Amy Whiting, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB website for this rulemaking at <http://www.arb.ca.gov/regact/2009/mir2009/mir2009.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action would not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed amendments do not impose any requirements leading to a physical change.

Before taking final action on the proposed regulatory action, the Executive Officer must determine that no reasonable alternative considered by the ARB staff, or that has otherwise been identified and brought to the attention of the ARB staff, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

Interested members of the public may also present comments orally or in writing at the meeting and may be submitted by postal mail or by electronic submittal before the meeting. To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon, November 2, 2009**, and addressed to the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request. Additionally, this information may become available via Google, Yahoo, and any other search engines.

The Executive Officer requests, but does not require, that 10 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff have time to fully consider each comment. The Executive Officer encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 39600, 39601, and 41712 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 39002, 39600, 40000, and 41712 of the Health and Safety Code.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

The public hearing will be conducted by the Executive Officer of ARB or a designee of the Executive Officer, in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code. Following the public hearing, the Executive Officer may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Executive Officer (or designee) may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, (916) 322-2990.

TITLE 20. CALIFORNIA ENERGY COMMISSION

NOTICE OF PROPOSED ACTION

PROPOSED AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS California Code of Regulations, Title 20, Sections 1601 through 1607

CALIFORNIA ENERGY COMMISSION Docket Number 09-AAER-1C

September 18, 2009

INTRODUCTION

The California Energy Commission (Energy Commission) proposes to amend its Appliance Efficiency Regulations. The purpose of this rulemaking is to adopt efficiency standards for active mode, standby mode,

power factor, luminance control, and labeling, in televisions with a screen area fewer than 1,400 square inches in area and to adopt the IEC 62087 Ed 2 and IEC 62301 Ed 1 test procedures for testing televisions in active mode and standby mode that are published by International Electrotechnical Commission (IEC) and have been adopted by the ENERGY STAR® program.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) as part of the supporting documents to adopt the proposed amendments. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed amendment language. These documents can be obtained from the contact persons designated below or from the Energy Commission website at [www.energy.ca.gov/appliances].

PUBLIC HEARINGS — FIRST HEARING

The Energy Commission's Energy Efficiency Committee (Committee) will hold a public hearing to receive public comments on the Express Terms:

THURSDAY, OCTOBER 13, 2009

9 a.m.

CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair Accessible)

Audio for the **October 13, 2009**, Committee hearing will be broadcast over the Internet. Details regarding the Energy Commission's webcast can be found at: [www.energy.ca.gov/webcast].

At this hearing, any person may present statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below). If possible, please provide written comments to be considered at the Committee hearing by **October 12, 2009**. The Energy Commission appreciates receiving written comments at the earliest possible date.

SECOND HEARING/PROPOSED ADOPTION DATE

The Energy Commission will hold a second public hearing for consideration of public comments and possible adoption of the 45-Day Language unless the Energy Commission decides to modify the Express Terms through issuance of 15-Day language. This hearing will be held:

WEDNESDAY, NOVEMBER 4, 2009

10:00 a.m.

California Energy Commission
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

Audio for the **November 4, 2009** adoption hearing will be broadcast over the Internet.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

At this hearing, any person may present statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below). If possible, please provide written comments to be considered at the Committee hearing by **November 2, 2009**; the Energy Commission appreciates receiving written comments at the earliest possible date.

**PUBLIC COMMENT PERIOD/
WRITTEN COMMENTS**

The public comment period for this NOPA will be from **September 18, 2009** through **November 2, 2009**. Any interested person may submit written comments on the proposed amendments. Written comments will still be accepted at the public Committee hearing and for the Energy Commission adoption hearing if they are received by 10 a.m. on **November 4, 2009**. Written comments shall be e-mailed to [Docket@energy.state.ca.us], or mailed or delivered to the following address (e-mailing is preferred):

California Energy Commission
Docket No. 09-AAER-1C
Docket Unit
1516 Ninth Street, Mail Station 4
Sacramento, California 95814-5504

All written comments must indicate **Docket No. 09-AAER-1C**. When comments are e-mailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt the amendments under the authority of Public Resources Code sections 25213, 25218(e), 25402(c)(1) and 25402.5.4. The proposed amendments implement, interpret, and make specific Public Resources Code section 25402(c)(1).

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

Existing law — Public Resources Code § 25402(c) — requires the Energy Commission to adopt regulations that prescribe minimum efficiency levels for appliances. The Energy Commission first adopted appliance efficiency regulations in 1976 and has periodically revised them since then. The current regulations include provisions on testing of appliances to determine their efficiency, reporting of data by manufacturers to the Energy Commission, standards establishing mandatory efficiency levels, and compliance and enforcement procedures, as well as general provisions on the scope of the regulations and definitions.

In this initial phase of the rulemaking proceeding, which is the subject of this NOPA, the Energy Commission is proposing to amend the Appliance Efficiency Regulations to adopt improved efficiency standards for televisions with screen areas not greater than 1,400 square inches¹ for the standby passive mode, add new efficiency standards for power usage in the active mode, and adopt as new testing procedures IEC 62301, Ed 1.0: *Household Electrical Appliances — Measurement of Standby Power* and IEC 62087, Ed. 2.0: *Methods of Measurement for the Power Consumption of Audio, Video and related Equipment*, both of which are published by the International Electrotechnical Commission. These testing procedures, which were adopted by the U.S. EPA under its ENERGY STAR® Program in November 2008, were wholly supported by the television industry, environmental groups, and the California Energy Commission as the appropriate test procedures for digital televisions.

The IEC 62087 test procedure measures power consumption of the television by imputing a specific video scene to the television display. This method of measuring power consumption was chosen by industry because it is only applicable to the energy consumption of the display and does not measure consumption use of additional functions that may or may not be included in a specific television. Some of the additional functions that are not measured for energy consumption by the IEC 62087 test procedure and are not included as part of the proposed energy efficiency standards include but are not limited to: an internet TV unit, a 3-dimensional conversion unit, an iPod unit, a VCR unit, a DVD/Blu Ray unit, a HDD unit, a FM-radio unit, a memory card-reader unit, and an ambient lighting unit. These additional functions are excluded by the test procedure because they are not required for the basic operation of the television display.

¹ In a subsequent Phase 2 of this rulemaking, the Energy Commission may adopt efficiency standards for televisions in excess of 1,400 square inches.

Existing California Appliance Efficiency Regulations include efficiency standards for standby mode for televisions that were effective on January 1, 2006 as shown below. The existing television standard does not include an efficiency standard for active mode power usage.

The Energy Commission is proposing to amend the Appliance Efficiency Regulations to revise the existing 3 watts standby-passive mode power usage standard to a 1 watt standard, add an efficiency standard for maximum active mode power usage, and add a requirement

that all televisions that use equal to or greater than 100 watts of power meet a 0.9 power factor standard. The proposed new standards are shown in the table below. These efficiency standards are not effective for televisions built before the effective date(s) shown in the table below. Thus, all televisions built before the effective date but still located at a manufacturer's or distributor's warehouse or sitting on a retailer's shelf or back storage room after the effective date of the standard can still be sold.

Existing Standards for Televisions

Effective Date	Screen Size (area A in square inches)	Maximum TV Standby-passive Mode Power Usage (watts)	Maximum On Mode Power Usage (P in Watts)	Minimum Power Factor for (P ≥ 100W)
January 1, 2006	All	3 W	No standard	No standard
Proposed Standards for Television				
<u>TIER 1 STANDARD</u>				
January 1, 2011	A <1400	1 W	$P \leq 0.20 * \text{Screen Area (in}^2) + 32$	0.9
<u>TIER 2 STANDARD</u>				
January 1, 2013	A < 1400	1 W	$P \leq 0.12 * \text{Screen Area (in}^2) + 25$	0.9

The first tier, effective on January 1, 2011, will require that television sets of 1,400 square inches or fewer use fewer than $0.20 * \text{Screen Area (in}^2) + 32$ watts of energy while in the On or Active mode. The result of this efficiency standard has been estimated to save the consumer \$18.48 per year for the design life of the television. The overall energy savings for California is estimated to be \$4,766 million over the ten years following the effective date of the standard.

The second tier, effective on January 1, 2013, will require that television sets of 1,400 square inches or fewer use fewer than $0.12 * \text{Screen Area (in}^2) + 25$. The result of this efficiency standard has been estimated to save the consumer an additional \$11.76 per year for the design life of the television. The overall additional energy savings for California is estimated to be \$3,339 million over the ten years following the effective date of the standard.

For televisions in excess of 1,400 square inches, the Energy Commission may undertake a Phase 2 of this rulemaking in order to set efficiency standards for such televisions.

The Energy Commission is also proposing to require that televisions have a minimum specified ratio between the luminance in retail and home brightness level settings. In addition, the Energy Commission is proposing that televisions must automatically enter a standby mode after a maximum of 15-minutes without signal input and when turned off.

As stated above, the Tier 1 efficiency standard is estimated to save the consumer \$18.48, per year (on average), and Tier 2 would save an additional \$11.76 per year. The combined saving from Tier 1 and Tier 2 would be \$30.24 per unit per year. The overall energy cost savings to consumers for California is expected to be \$8.1 billion after all existing stock is replaced.

The energy savings generated from this regulation is estimated to be 6515 Gigawatt-hours (GWh) annually. The PG&E CASE Study published on July 3, 2008 estimates the peak demand reduction to be 615 MW. Without adopting the proposed regulation this translates to building a new natural gas power plant to handle the additional demand. The estimated cost of construction of a natural gas power plant of 615 MW capacity is

approximately \$615 million according to the Energy Information Administration which identifies the “total overnight cost” (building cost) to be approximately \$1/w.² The estimated total value of this regulation in direct energy cost savings from the proposed standards and indirect savings in avoided construction cost of a new natural gas power plant is approximately \$8.7 billion.

Currently, California’s *Appliance Efficiency Regulations* require that a manufacturer test their televisions to comply with California standards using the outdated IEC 62087: 2002 (E) *Methods for Measurements for the Power Consumption of Audio Video, and Related Equipment*. This test method measures standby-passive mode energy use. The Energy Commission is proposing to adopt in its place the IEC 62301, Ed 1.0: *Household Electrical Appliances—Measurement of Standby Power*. In addition the Energy Commission is proposing to adopt International Electrotechnical Commission (IEC) 62087 Edition 2.0 “*Methods of Measurement for the Power Consumption of Audio, Video and Related Equipment*” to measure the active mode power use of televisions.

While the United States Department of Energy (U.S. DOE) has an old test procedure for analog television sets, found in 10 CFR Pt. 430, Subpt. B, App. H, it is insufficient for measurement of the power consumption of digital TVs. Digital televisions compose nearly the entirety of California’s market and are the focus of the proposed regulations. Furthermore, analog-format television broadcasts are no longer permitted by federal regulation; television broadcasting has changed to using purely digital signals, indicating that all new televisions sold within the United States are expected to be digital televisions.

The Energy Commission’s proposed test method for digital televisions is based on the test method adopted by the U.S. Environmental Protection Agency and U.S. DOE ENERGY STAR® program in November 2008. This testing procedure was wholly supported by the television industry, environmental groups, and the California Energy Commission as the appropriate test procedures for digital televisions. Additional components of the new test method proposed by the Energy Commission are based upon version 3.0 of the ENERGY STAR® program requirements for televisions and luminance testing developed during the latest revisions to version 4.0. These additions add guidance to the testing procedure, give credit for the use of forced menus and automatic brightness controls, and ensure that test results are reproducible and fair.

The Energy Commission is also proposing labeling for energy consumption disclosure. The labeling requirements would provide consumers with easy access to energy information.

The Energy Commission has developed a technical record of information used to support the adoption of a proposed efficiency standards for televisions as required by the state law located in Public Resources Code section 25402(c)(1). This information has been collected through workshops held on July 16, 2008 and December 15, 2008, through various subsequent meetings held at the request of the Energy Commission and by the various stakeholders such as: the television manufacturers, the makers of the television displays provided to the manufacturers, the makers of the light ray dispersing plastic film used to reduce the need of backlighting by displays by 40 percent, the Consumer Electronics Association (CEA), retailers, utilities, and national environmental groups, and through specific written request to the various stakeholders. As a result of the technical information that has been provided by the stakeholders, the Energy Commission created a record that it has technically analyzed. The Energy Commission then prepared a Staff Report (“Draft Efficiency Standards for Televisions,” December 2008, Publication No. CEC-400-2008-SD) as the supporting technical document to meet the requirements of the state law located in Public Resources Code section 25402(c)(1). Energy Commission staff have determined that the conclusions of this staff report are based on information provided by the stakeholders that is supported by studies, facts, reasonable assumptions predicated upon facts, and expert opinion supported by the facts.

The Energy Commission, as required by the Public Resources Code, has made a finding that television use requires a significant amount of energy on a statewide basis. This finding is supported by the record in which the Energy Commission found that television viewing represents about ten percent of residential electricity use or approximately two percent of California’s gross system electricity usage. The record showed that television energy use for all televisions in California is estimated to be about 8,770 GWh/year (a GWh is one million kilowatt-hours of electric power). The Energy Commission estimated from information in the record that the statewide benefit from the proposed efficiency standards for televisions will result in an energy savings of 6,515 GWh/yr which will result in a direct energy cost savings to consumers of 8.1 billion dollars. This energy savings also represents a reduction in growth of a huge energy demand due to the use of very inefficient televisions that, if unchecked, would result in the need for California to build a new \$3 billion power plant within the next 10 years.

² <http://www.eia.doe.gov/oiaf/aeo/assumption/pdf/electricity.pdf>

The Public Resources Code also requires that the Energy Commission design the energy efficiency standards for televisions to be technically feasible and attainable. The Energy Commission has determined from the record that there are many new technologies found in televisions currently being built and sold in the market that effectively reduce their energy consumption, that the use of these technologies has not imposed and does not impose a large cost on either the manufacturer or consumer, and that they would greatly decrease the energy consumption of the most inefficient televisions still being sold in the market were they incorporated into these units. For example, findings in the Staff Report were that:

1. Television models are being manufactured with photo-sensors which automatically adjust the brightness and contrast of a screen based the ambient light conditions, and with menu settings for brightness that are appropriate for home use while saving energy.
 - Example: LG Electronics recently unveiled an Intelligent Sensor technology that reduces for Liquid Crystal Display (LCD) TV energy consumption by 50–80 percent savings when using their automatic brightness control.
2. New phosphors with enhanced gas mixtures are being used that improve the efficiency of Plasma televisions, and enhance the picture quality.
 - Example: CNET and ENERGY STAR television test data shows that large screen Plasma televisions are able to meet Tier 1 and Tier 2 standards.
3. Display panel manufacturers use display enhancement technologies for LCD screens that increase the efficiency of the backlight's transformation into a picture. Light diffusing and light polarizing film technologies are available today that can enhance the energy efficiency in all sizes of televisions. 3M's Vikuiti optical film is integrated into the backlight of many flat panels of LCD televisions. 3M film alone can reduce their power consumption by 37 percent. Many other diffusing and polarizing film technology are being used by many manufacturers in their television models and have resulted in a significant reduction in energy consumption. California based companies Agoura Technologies and Imagine Designs have also developed light polarization and diffusing films that can significantly improve backlight transmission thus can significantly reduce the energy consumption in picture displays.

4. LCD Light Emitting Diode (LED) television backlight technology, rare only a few years ago, is now premium mainstream technology. LED technology delivers significant energy savings over conventional Cold Cathode Fluorescent Lamp backlit models, offering the lowest power consumption of any LCD TV available today.

- Example: In July 2009, Sharp television manufacturer unveiled a new line of LED-backlit LCD TVs. New television energy consumption data released by Sharp on the new line of LED LCD television of 32", 40", 46", and 52" size models show that the new televisions exceed the Tier 2 energy consumption between 20 percent to 40 percent.
- Example: Samsung's LED LCD TV technology is approximately 40 percent more efficient than their already-efficient, ENERGY STAR®-qualified LCD TVs.

5. Sony television's new technology Hot Cathode Fluorescent Lamp (HCFL) micro tubular Backlight Panel uses 40 percent less energy than a standard (cold cathode) fluorescent backlight panel. A 52" HCFL television uses only 127 watts in active mode while maintaining the same level of brightness as conventional CCFL LCD TVs.

Sony has also incorporated an intelligent Presence Sensor function in its televisions to sense if a viewer is present or not in the room, and is able to temporarily turn off the TV picture, instantly reducing power consumption by 50 percent.

6. In December 2009 workshop, JVC television representative Dave Kline declared that JVC has 13 television models that are proposed Tier 2 compliant. Currently JVC has 19 TVs on the August 11, 2009 ENERGY STAR® list that meet Tier 2. Compliant television size ranges from 19" to 52".
7. VIZIO is one of the three leading brands of LCD and Plasma Flat Panel HDTV, with 10 percent of the television sales in the U.S. for 2008. VIZIO has confirmed to the Energy Commission that they are in a position to comply with the proposed standards earlier than the proposed effective dates. VIZIO has several LCD models in the market today that meet the Tier 2 standard, some four years before the proposed effective date of the standard. These models are using the latest technology and features and scan a range of screen sizes.

VIZIO in their letter to the Energy Commission have stated that although they do not meet the standard today for Plasma TVs, there are significant efficiency achievements in the near horizon that will allow them to meet the Tier 2 requirements in the next couple of years.

8. Power consumption for Panasonic's most popular size models, on average, has been reduced between 36–53 percent when compared with 2007 models.
9. The McLaughlin Consulting Group (MCG), a display market and technology consulting team, has endorsed the proposed two-tiered television energy standards and recommended that the Tier 1 and Tier 2 effective dates should be moved to July 1, 2010 and July 1, 2011, respectively.

The MCG in their letter stated that “proposed California standard will encourage innovation by providing momentum for companies to adopt currently available energy efficiency technologies and to also justify investments in various emerging technologies. Currently available technologies allow TVs to meet the Tier 2 levels today and emerging technologies will allow TVs to significantly exceed Tier 2 levels.”

MCG also stated “we believe that the power efficiency gains can be delivered while sustaining the historical cost down trends of 10 percent cost reduction annually.” California consumers “will benefit from energy cost savings, thus making the proposed standard extremely cost-effective for the state of California.”

During the past several years, the MCG team has completed in depth performance and cost analysis of many of the key materials and components used in LCD backlights. Their studies and modeling of the polarization recycling films, brightness enhancement films, diffusers, and backlight architectures predict continuous improvement in performance as well as substantial cost reductions due to increased competition and production efficiencies.

10. Energy Efficient Organic LED (OLED) televisions are currently available in small sizes. The size is expected to grow larger in the near future. OLED televisions do not require a backlight to function and use significantly less power during operation. Considering how much less energy OLEDs consume over current LCD and Plasma, OLED televisions will likely become more prominent in the future.

Based on facts in the record, the Energy Commission has determined that the proposed energy efficiency

standards for televisions are technically feasible and attainable as required by the Public Resources Code.

Finally, the Public Resources Code requires that the energy efficiency standards adopted by the Energy Commission must “not result in any added total costs to the consumer over the designed life of the television”. The Energy Commission has made a determination for the proposed efficiency standards. Based on the record before it, the Energy Commission has determined that there will be no increase in the purchase price of televisions due to the proposed efficiency standards because existing technologies, such as the use new phosphors with enhanced gas mixtures that causes pixels to glow can improve the efficiency of Plasma televisions and the use of light ray dispersing plastic film for LCD technology actually reduces both the number of energy using lamps and the size of the power supply needed thus reducing the total cost to build the television. Other strategies used in the proposed efficiency standard to improve television efficiency include changing the “as-shipped” brightness settings of television sets, at zero cost, and/or including one or more of a variety of television efficiency technologies. Thus, the efficiency standards can be met by incorporating these or other efficiency technologies in televisions, which in turn allow manufacturing changes that in many cases more than offset any increased cost, leading to low or zero net costs increases depending on the specific routes the manufacturer chooses to pursue. The added total cost is obtained by comparing the cost and performance of a typical model that the consumer would be expected to purchase with the proposed standard in effect, to the cost and performance of a typical model that the consumer would be expected to purchase without the proposed standard in effect. The Energy Commission estimated from information in the record that the statewide benefit from the proposed efficiency standards for televisions will result in a savings to consumers of \$8.1 billion during the first ten years the standards are in effect.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

FEDERAL TEST METHODS

10 CFR Pt. 430, Subpt. B, App. H

Copies available from: Superintendent of Documents
U.S. Government Printing
Office
Washington, DC 20402
www.access.gpo.gov/nara/cfr
www.gpoaccess.gov/cfr/

ENERGY STAR Program Requirements for TVs:
Version 3.0 and Version 4.0

Copies available from: US EPA
Climate Protection Partnership
ENERGY STAR Programs
Hotline & Distribution
(MS-6202J)
1200 Pennsylvania Ave NW
Washington, DC 20460
www.energystar.gov

INTERNATIONAL ELECTROTECHNICAL COMMISSION (IEC)

IEC 62087: 2002 (E) *Methods for Measurements for the Power Consumption of Audio Video, and Related Equipment*.

IEC 62087 Edition 2.0 “Methods of Measurement for the Power Consumption of Audio, Video and Related Equipment,”

IEC 62301, Ed 1.0 “Household Electrical Appliances—Measurement of Standby Power”

Copies available from: IEC Central Office
3, rue de Varembe
P.O. Box 131
CH—1211 Geneva 20
Switzerland
Phone: +41 22 919 02 11

FEDERAL LAW

The proposed amendments conflict with existing federal law. The U.S. DOE has a test procedure for television sets, found in 10 CFR Pt. 430, Subpt. B, App. H, but that test method cannot be used to measure the energy consumption of the digital TVs that compose nearly the entirety of California’s market and is the focus of the proposed regulations.

OTHER STATUTORY REQUIREMENTS

California law requires that the Energy Commission’s *Appliance Efficiency Regulations*

- (1) apply to appliances that use a significant amount of energy on a statewide basis,
- (2) be based on feasible and attainable efficiencies or feasible improved efficiencies, and
- (3) be cost-effective based on a reasonable use pattern (i.e., not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance). (Pub. Resources Code section 25402(c)(1)).

LOCAL MANDATE

The proposed amendments will not impose a mandate on state or local agencies or districts.

ECONOMIC AND FISCAL IMPACTS

The Energy Commission has made the following initial determinations.

FISCAL IMPACT

Costs Requiring Reimbursement. The proposed amendments will not impose on local agencies or school districts any costs for which Government Code sections 17500–17630 require reimbursement.

Other Non-Discretionary Costs or Savings for Local Agencies. Local agencies that purchase televisions subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in electricity bills. In the case of televisions there are no estimated costs to local agencies.

Costs or Savings for State Agencies. State agencies that purchase televisions subject to efficiency standards sometimes have to pay increased purchase costs for those appliances. However, those costs are always recovered by reductions in electricity bills. In the case of televisions there are no estimated costs to state agencies.

Cost or Savings in Federal Funding to the State. The proposed amendments will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

There will be no significant effect on housing costs. The costs of owning and operating a home will decrease slightly as a result of lower electricity costs by using the efficient televisions. The Energy Commission has determined that the proposed efficiency standards will not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission has made an initial determination that there will be no significant statewide adverse economic, fiscal, or environmental impact direct-

ly affecting businesses, including small businesses, as a result of the proposed amendments, including the ability of California businesses to compete with businesses in other states.

Based on the record before it the Energy Commission has determined that there will be no increase in the purchase price of televisions due to the proposed efficiency standards because existing technologies, such as the use of new phosphors with enhanced gas mixtures can improve the efficiency of Plasma televisions, and the use of light ray dispersing plastic film, actually reduces the number of energy using lamps and the size of the power supply needed, thus reducing the cost to build the television. Other strategies used in the proposed efficiency standard to improve television efficiency include changing the "as-shipped" brightness settings of television sets, at zero cost, and/or including one or more of a variety of television efficiency technologies. Thus, the efficiency standards can be met by incorporating these efficiency technologies in televisions, allow manufacturing changes such that more than offset any increased cost, leading to lower or zero net costs increases. Efficient televisions on the market today which meet proposed standards are not more expensive than less efficient models. U.S. Environmental Protection Agency analysis of the market shows that the manufacturer suggested retail price (MSRP) of televisions which meet more stringent standards are similar to those which do not.³ Because the Energy Commission has made a finding that the proposed efficient televisions meeting the standard are currently feasible, or will be feasible when the standards become effective, and there is no added cost to build the more efficient televisions, there will be no adverse economic impact to business nor an adverse impact of California businesses to compete with businesses in other states.

In addition, Energy Commission staff have determined that the proposed regulations would save consumers 6515 GWh annually over a ten year period. Staff have determined that the value of this energy savings for California consumers over the lifetime of the television will be \$8.1 billion. Staff believe this \$8.1 billion in consumer energy cost savings could stimulate California business because this \$8.1 billion is an increase in disposal income that the consumer would otherwise be spending in higher energy bills due to the use of inefficient televisions.

Nevertheless, the Energy Commission invites interested persons to submit alternative proposals to lessen any adverse economic impact on business that might exist, which may include the following considerations:

- (i) Establishment of differing compliance or reporting requirements, or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) Use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

IMPACTS ON THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE, THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES, OR THE EXPANSION OF BUSINESSES IN CALIFORNIA

The proposed amendments will have no impact on the creation or elimination of jobs within the state, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California.

Based on the record before it the Energy Commission has determined that there will be no increase in the purchase price of televisions due to the proposed efficiency standards, because existing technologies, such as the use of new phosphors with enhanced gas mixtures can improve the efficiency of Plasma televisions, and the use of light ray dispersing plastic film, actually reduces the number of energy using lamps and the size of the power supply needed, thus reducing the cost to build the television. Other strategies used in the proposed efficiency standard to improve television efficiency include changing the "as-shipped" brightness settings of television sets, at zero cost, and/or including one or more of a variety of television efficiency technologies. Thus, the efficiency standards can be met by incorporating these efficiency technologies in televisions, allow manufacturing changes such that more than offset any increased cost, leading to lower or zero net costs increases. Because the Energy Commission has made a finding that the proposed efficient televisions meeting the standard are currently feasible, or will be feasible when the standards become effective, and there is no added cost to build the more efficient televisions, there will be no adverse economic impact to business nor an adverse impact of California businesses to compete with businesses in other states. Without impact on California businesses there is no reason that the proposed standards would lead to job losses.

In addition the Energy Commission staff have determined that the proposed regulations would save 6515 GWh annually over a ten year period. Staff have determined that the value of this energy savings for the consumer over this period will be \$8.1 billion. Staff believe

³ http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/television/ENERGY_STAR_TV_Stakeholder_Webinar_Presentation_72809.pdf

this \$8.1 billion in consumer energy cost savings could stimulate consumer spending or investment which would result in the creation of jobs.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

There will be no significant cost impacts on businesses and individuals that purchase televisions subject to efficiency standards sometimes. The costs of owning and operating a television will decrease as a result of lower electricity costs by using the efficient televisions. The Energy Commission has determined that the proposed efficiency standards will not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

BUSINESS REPORTS

The proposed amendments to Appliance Efficiency Regulations would require mandatory data submittal of energy efficiency data for manufacturers (i.e., Business Reports) to the Energy Commission about the televisions that they manufacture. (In California, there are few manufacturers of the appliances that would be added to the regulations by the proposed amendments.) The Energy Commission estimates that the annual reporting cost to be \$400 per manufacturer and that the proposed amendments will not alter this cost substantially.

It is necessary for the health, safety, or welfare of the people of the state that the proposed regulations apply to business, for two basic reasons. First, the Legislature requires the Energy Commission to adopt efficiency standards, and the submittal of data is necessary to determine compliance with the standards. Second, the data required to be submitted will be used to increase consumer awareness, to complement utility efficiency programs, and for research, all of which will foster additional efficiency, which, in turn, will lead to economic, energy reliability, and environmental benefits.

SMALL BUSINESS

There will be no significant cost impacts on small businesses that purchase televisions subject to efficiency standards sometimes. The cost of owning and operating a television will decrease as a result of lower electricity costs by using the efficient televisions. The Energy Commission has determined that the proposed efficiency standards will not result in added total costs to

the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

ALTERNATIVES

Before it adopts the proposed amendments, the Energy Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected private persons than the proposed amendments. To date, the Energy Commission has found no alternatives to the proposed action that would be more effective, or as effective and less burdensome.

The staff of the Energy Commission investigated as an alternative to the proposed efficiency standards the energy savings expected from relying only on the U.S. EPA's voluntary ENERGY STAR® Program for television. As a result of that investigation staff have determined that the voluntary ENERGY STAR® program would only obtain 35 percent the calculated \$8.1 billion in energy efficiency for the consumer that was calculated for the proposed efficiency standards.

Staff therefore has determined that:

- (1) the record supports that the energy savings difference from adopting the proposed efficiency standards for televisions instead of relying on the voluntary ENERGY STAR® Program results in a "significant amount of energy savings on a statewide basis" pursuant to Public Resources Code section 25402(c)(1);
- (2) the record supports that the proposed efficiency standards are "based on feasible and attainable efficiencies" of televisions currently being made and being proposed by the manufacturers, and that these efficient televisions will result in a significant reduction in California's energy "consumption growth rates" pursuant to Public Resources Code section 25402(c)(1);
- (3) the record supports that the proposed efficiency standards will "not result in any added total cost for the consumers over the designed life" of the televisions pursuant to Public Resources Code section 25402(c)(1) and that there may be no incremental cost difference between the efficient televisions and the energy wasting television currently being sold; and

- (4) in calculating the cost-effectiveness of the efficiency standards, staff considered “the value of the energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard” pursuant to Public Resources Code section 25402(c)(1).

Public Adviser’s Office
California Energy Commission
1516 Ninth Street, Mail Station 12
Sacramento, California 95814-5512
Telephone: 916-654-4489
Fax: 916-654-4493
E-mail: [PublicAdviser@energy.state.ca.us]

DESIGNATED CONTACT PERSONS

Please contact the following person, preferably by e-mail, for general information about the proceeding or to obtain any document relevant to the proceeding, including the Express Terms, the Initial Statement of Reasons, the Form 399, and any other document in the rulemaking file:

Angelica Ramos
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4147
Fax: 916-654-4304
E-mail: [aromo@energy.state.ca.us]

Please contact the following person, preferably by e-mail, for substantive questions:

Harinder Singh
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4091
Fax: 916-654-4304
E-mail: [hsingh@energy.state.ca.us]

The backup contact person for substantive questions is:

Kenneth Rider
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-5006
Fax: 916-654-4304
E-mail: [krider@energy.state.ca.us]

Mr. Singh and Mr. Rider also can assist in obtaining documents and in answering general questions.

PUBLIC ADVISER

The Energy Commission’s Public Adviser’s Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this rulemaking, please contact:

NEWS MEDIA INQUIRIES

News media inquiries should be directed to the Media and Public Communications Office at (916) 654-4989, or by e-mail at [mediaoffice@energy.state.ca.us].

AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS (EXPRESS TERMS), THE INITIAL STATEMENT OF REASONS (ISOR), AND THE INFORMATION UPON WHICH THE PROPOSAL IS BASED (RULEMAKING FILE)

The first action to take to obtain documents in this rulemaking proceeding is to visit the Energy Commission’s appliance efficiency website at [www.energy.ca.gov/appliances].

The website will have all of the documents prepared by the Energy Commission, including the Express Terms of the proposed amendments (written in plain English and set forth in a format that indicates both the existing text and the proposed text), the Initial Statement of Reasons, and all documents relied upon by the Energy Commission, as well as most of the other documents in the rulemaking file.

The Express Terms and the Initial Statement of Reasons are also available at no cost from the contact person, Angelica Ramos (see above).

The Energy Commission’s Docket Office has available all of the documents in the rulemaking file; for copies, please contact:

Docket Office
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, California 95814-5504
916-654-5076

AVAILABILITY OF MODIFIED AMENDMENTS (15-DAY LANGUAGE)

At the **November 4, 2009** adoption hearing, the Energy Commission may adopt the proposed amendments substantially as described in this NOPA. If modifications are made, and they are sufficiently related to the originally-proposed amendments, the full modified

text with changes clearly indicated will be made available to the public at least 15 days before the Energy Commission adopts the amendments. A notice of the availability of any such text will be placed on the Energy Commission's website and will be mailed to all persons to whom this notice is being mailed, who submitted written or oral comments at any hearing, who submitted written comments during the public comment period, or who requested to receive such notices. In addition, copies may be requested from the contact person named above and from the Docket Office. The Energy Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public. Adoption of the 15-Day language will be considered at a public hearing scheduled in the notice of availability.

FINAL STATEMENT OF REASONS

The Energy Commission will prepare a Final Statement of Reasons on the amendments, responding to all relevant comments made during the proceeding. The Final Statement of Reasons will be available from the contact person named above and from the Docket Office, and will be posted on the Energy Commission's website.

INTERNET ACCESS

Documents prepared by the Energy Commission for this rulemaking, including this NOPA, the Express Terms, the ISOR, and most other documents in the rule-making file, will be posted on the Energy Commission's website, [www.energy.ca.gov/appliances].

Note: The California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.

GENERAL PUBLIC INTEREST

DEPARTMENT OF FISH AND GAME

CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

Tracking Number 2080-2009-011-00

PROJECT: California State Water Project Delta Facilities

LOCATION: The California Delta and Central Valley

NOTIFIER: California Department of Water Resources

BACKGROUND

The proposed project (Project) by the Department of Water Resources (DWR) is the continued operation of the State Water Project (SWP) and other water diversion, storage, and transport related actions that are described below and included in the federal *Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project* (Ref. No. 2008/09022)(BO) issued by the National Marine Fisheries Service (NMFS) for the protection of marine species, including Sacramento River winter-run Chinook salmon and Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*) (Chinook salmon). Chinook salmon are listed species under both the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 *et seq.*) and the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 *et seq.*). Winter-run Chinook salmon is listed as endangered and spring-run Chinook salmon is listed as threatened under CESA. Flow changes, loss of habitat, and entrainment and impingement caused by Project-related water export and management activities are all known to result in incidental take of Chinook salmon. On August 5, 2009, Donald Koch, the Director of the Department of Fish and Game (DFG), received correspondence from Lester A. Snow, Director of DWR, requesting a determination pursuant to Fish and Game Code Section 2080.1, that the BO, including its incidental take statement, is consistent with CESA such that no further authorization is necessary for the Project to take Chinook salmon.

The Project consists of the following existing facilities in the Delta: Clifton Court Forebay, John E. Skinner Fish Facility, Harvey O. Banks Pumping Plant (collectively referred to as the Banks Pumping Plant Complex), and the North Bay Aqueduct at Barker Slough (NBA). The Project also includes the following facilities which are run in coordination with the federal Central Valley Project (CVP): Suisun Marsh Salinity Control Gates, Roaring River Distribution System, Morrow Island Distribution System, Goodyear Slough Outfall, and the South Delta Temporary Barriers Project (TBP). TBP has four rock barriers across south Delta channels (at Middle River near Victoria Canal, Old River near Tracy, Grant Line Canal near Tracy Boulevard Bridge, and the head of Old River near the confluence of Old River and San Joaquin River) which can be installed and removed during spring and fall.

The Oroville Complex (Oroville Dam and related facilities, including the Feather River Fish Hatchery) is part of the SWP but not part of the Project. DWR's Fed-

eral Energy Regulatory Commission (FERC) license for the Oroville Complex expired in 2007. Until a FERC license is issued, DWR will operate the Oroville Complex to the existing FERC license. FERC is currently in consultation with NMFS regarding the effects of relicensing the Oroville Complex for 50 years. Because the effects of the Oroville Complex are considered in a separate and ongoing NMFS consultation, the effects of operation of Oroville Dam on listed fish within the Feather River were not considered as part of the BO consultation and thus are not part of the Project. However, the effects of the flows from the Oroville Complex on all listed fish under NMFS jurisdiction in the Sacramento River and Delta were considered in the BO.

The SWP is operated to provide flood control and water for agricultural, municipal, industrial, recreational, and environmental purposes. Water conserved in, and released from, Oroville Reservoir, together with Sacramento–San Joaquin flows, serves three contractors in the Feather River area, two contractors via the NBA, and the remaining 24 contractors in the SWP service areas south of the Delta with deliveries from the Harvey O. Banks Pumping Plant in the south Delta. California State Water Resources Control Board (SWRCB) permits allow SWP facilities to divert water in the Delta and re-divert water that is stored in upstream reservoirs. The U.S. Bureau of Reclamation (USBR) and DWR coordinate the operations of the CVP and SWP to meet water quality, quantity, and operational criteria in the Delta set by the SWRCB and to meet ESA requirements for delta smelt, winter and spring–run Chinook salmon, steelhead and green sturgeon.

Because the proposed action has the potential to take ESA-listed species, the USBR, on behalf of itself and DWR, entered into a consultation with NMFS pursuant to ESA Section 7. On June 4, 2009, NMFS transmitted the BO to USBR. The BO describes CVP/SWP operations, including the Project, and sets forth conservation measures to minimize impacts to Chinook salmon and their habitat and mitigate the impacts which remain after minimization. The BO includes a “Reasonable and Prudent Alternative” (RPA) which must be implemented and adhered to. BO section 11.2 details the RPA actions by Central Valley geographic areas. Those areas are the Sacramento River, American River, East Side (Stanislaus River), and the Delta. BO section 11.3 provides a species-by-species explanation of: (1) how each measure contributes to avoiding jeopardy or adverse modification of designated critical habitat for that species; and (2) the basis for NMFS’ conclusion that the RPA measures as a whole are likely to avoid jeopardizing the species or adversely modifying its critical habi-

tat. A detailed description of the adaptive process, its framework, and the rationale for each of the RPA components are presented in the context of the full BO.

DETERMINATION

DFG has determined that the BO, including all RPA requirements and related incidental take statement, is consistent with CESA because the mitigation measures therein meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for DFG to authorize incidental take of CESA listed species. This determination is limited to only those actions specifically identified and analyzed in the June 4, 2009 BO.

Specifically, DFG finds that Project take of Chinook salmon will be incidental to an otherwise lawful activity (i.e., SWP operations) and that the measures and RPA actions identified in the BO to modify flow requirements, control water temperatures, improve passage and access to spawning areas, and restore habitat will minimize and fully mitigate the impacts of the authorized take of Chinook salmon. Furthermore, DFG finds that the Project, with the prescribed measures and RPA in place, will not jeopardize the continued existence of the species. The avoidance, minimization, and mitigation measures in the BO include, but are not limited to, the following:

Avoidance, Minimization and Mitigation Measures

• Near-term Actions:

- To ensure cooler water temperatures that will improve productivity and survival of Chinook salmon, DWR and USBR shall implement new flow management programs in the upper Sacramento River, Clear Creek, American River, Stanislaus River and the reservoirs that control the river.
- To improve passage to upstream habitat areas, DWR shall coordinate with USBR on the Red Bluff Diversion Dam gate operations, construction and operation of an alternative pumping plant to supply water to existing users, and by 2012, have the gates open year-round.
- To improve spawning and rearing habitat for Chinook salmon in the Sacramento River basin and Delta, DWR in conjunction with USBR and other agencies shall implement habitat enhancement actions. These actions specifically include ongoing DWR restoration activities in the Yolo Bypass including Liberty Island and the Cache Slough Complex.

- To benefit existing Central Valley spring–run Chinook salmon and to establish a second population of Sacramento River winter–run Chinook salmon, DWR and USBR shall provide for restoration of habitat on Battle Creek.
- To improve juvenile and adult survival for Chinook salmon passing through the Delta and provide for increased aquatic habitat during critical times, DWR and USBR shall:
 - Implement water control gate closures during key times when Chinook salmon are likely to be migrating through the area and implement pumping flow modifications to reduce the number of juveniles vulnerable to entrainment at the water export facilities.
 - Facilitate improvements to the fish screening and salvage operations at the Harvey O. Banks Water Pumping Facility to reduce mortality from entrainment and salvage.
 - Initiate operational changes to reduce negative flows toward the export pumps in Old and Middle rivers to reduce likelihood that Chinook salmon will be diverted from the San Joaquin or Sacramento River into the southern or central Delta.
 - Support activities to increase San Joaquin River flows.
 - Curtail water export based on technical team recommendations.
- To ensure preservation of important habitat areas for Chinook salmon, DWR shall not implement the South Delta Barrier improvement Program.
- **Long-term Actions:**
 - DWR and USBR shall implement long-term passage evaluations at Shasta, Folsom, and New Melones Dams to allow re-introduction of Chinook salmon to desirable habitat above the rim-dams. These actions may include increased flow requirements, fixes to control structures, pulse flows for fish attraction or channel maintenance, or changes in the operation of those control structures.
 - DWR and USBR shall implement monitoring actions and new studies of juvenile fish in

the San Joaquin and Sacramento Basins to evaluate the effectiveness of the RPA and adaptively manage/refine actions over the life of the project.

- DWR and USBR shall establish a technical review group to assist in: determining necessary “real-time” operational measures, evaluating effectiveness of actions, and modifying measures when necessary.
- **Reporting and Monitoring Actions:** Conditions of the BO and RPA require DWR to develop and follow specific monitoring programs to achieve the RPA objectives. Participation, including by DFG, in review and reporting requirements for these processes are all a condition of, and detailed within, the BO and RPA. The BO describes a monitoring and reporting process for specific actions set forth within RPA “Action Suites” for the design, monitoring, and adaptive management of those actions required to improve Chinook salmon survival and habitat. Monitoring and reporting requirements are described in detail in Section 11.2.1.3 of the BO.
- **Ensured Funding:** All SWP operational actions are a conditional requirement of the BO RPA. Funding for certain required actions has been allocated through bonds or has been identified in allocations from the American Recovery and Reinvestment Act of 2009. Additionally, DWR has the statutory authority to require reimbursement in the SWP contracts for water and power for any costs DWR incurs for SWP-related fish and wildlife preservation (See Water Code §§ 11912, 12937, 12938).

Based on this consistency determination, DWR does not need to obtain authorization from DFG under CESA for incidental take of Sacramento River winter–run Chinook salmon and Central Valley spring–run Chinook salmon that occurs in carrying out the Project, provided DWR implements the Project as described in the BO, and complies with the measures, RPA and other conditions described in the BO. However, if the Project as described in the BO, including the mitigation measures therein, changes after the date of the BO, or if NMFS amends or replaces the BO, including any of the RPA, DWR will need to obtain from DFG a new consistency determination (in accordance with Fish and Game Code section 2080.1) or a separate incidental take permit (in accordance with Fish and Game Code section 2081).

DISAPPROVAL DECISION

AIR RESOURCES BOARD

State of California
Office of Administrative Law

In re:
Air Resources Board

Regulatory Action: Title 17
California Code of Regulations

Adopt sections: 95366 and 95367
DECISION OF DISAPPROVAL OF
PART OF A REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2009-0721-01 S

SUMMARY OF REGULATORY ACTION

The Air Resources Board proposed to limit sales of small containers of automotive refrigerant that have high global warming potential by restricting the containers to approved designs that have a valve to prevent the escape of unused refrigerant, establishing a deposit and refund system to stimulate return of containers after use, requiring the recovery of residual refrigerant from the small containers, and establishing record keeping and periodic reporting requirements for data that can be used to assess the success of the regulatory program in limiting the escape of refrigerants. On July 21, 2009, the Air Resources Board ("Board") submitted the proposed regulations to the Office of Administrative Law ("OAL") for review in accordance with the Administrative Procedure Act ("APA"). On September 1, 2009, OAL approved the majority of the regulations, but disapproved the portion of the regulatory filing providing for adjustment of the refrigerant container deposit. This Decision of Disapproval explains the reason for OAL's action.

DECISION

OAL disapproved a portion of proposed section 95366, subdivision (a), paragraph (2) and proposed section 95367, subdivisions (d) through (g), for failure to comply with the consistency standard of Government Code section 11349.1, subdivision (a). The disap-

proved provisions would have prescribed a procedure for the amendment of the regulation specifying the amount of the deposit on small containers of automotive refrigerant that does not comply with the requirements of the APA.

Date: September 8, 2009 /s/
David D. Potter
Senior Staff Counsel
FOR: SUSAN LAPSLEY
Director

Original: James Goldstone
Copy: Amy Whiting

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0805-01
CEMETERY AND FUNERAL BUREAU
Regulatory Charge — \$8.50 Fee

This regulatory action establishes a fee of \$8.50 for each burial, entombment, or inurnment pursuant to Business and Professions Code section 9765.

Title 16
California Code of Regulations
AMEND: 2310
Filed 09/08/2009
Effective 10/08/2009
Agency Contact:
Richard L. Wallinder, Jr. (916) 574-7870

File# 2009-0903-04
DEPARTMENT OF FOOD AND AGRICULTURE
Light Brown Apple Moth Interior Quarantine

This is the readoption of two emergency actions (OAL file number 2009-0324-02E and 2009-0420-01E) with respect to quarantine areas for the light brown apple moth (LBAM; *Epiphyas postvittana*). OAL file number 2009-0324-02E expanded the regulated area in Alameda and Marin counties by approximately 61 square miles and the regulated area in

Solano and Sonoma counties by approximately 11 square miles. OAL file number 2009-0420-01E established new regulated areas in Napa of approximately 19 square miles and in the Hollister area of San Benito County of approximately 16 square miles, as well as the Cotati and Rohnert areas of approximately 13 square miles and the Healdsburg area of Sonoma of approximately 16 square miles.

Title 3

California Code of Regulations

AMEND: 3434(b)

Filed 09/09/2009

Effective 09/09/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-0901-04

DEPARTMENT OF FOOD AND AGRICULTURE

Light Brown Apple Moth Interior Quarantine

This emergency regulatory action will expand the existing regulated areas in the counties of Alameda, Contra Costa, Monterey, Napa, San Benito and Solano counties by approximately 161 square miles. These regulated areas are for the light brown apple moth "LBAM" ("Epiphyas postvittana") due to recent findings of the pest. The effect of this amendment of the regulation is to establish the authority for the State to perform quarantine activities against LBAM in these additional areas.

Title 3

California Code of Regulations

AMEND: 3434(b)

Filed 09/03/2009

Effective 09/03/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-0901-03

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Homelessness Prevention and Rapid Re-Housing Program

This rulemaking action establishes a homelessness prevention program using federal stimulus monies made available under the American Recovery and Reinvestment Act of 2009, Public Law 111-5. The regulations describe, among other things, the following: grant applicant eligibility criteria; minimum and maximum grant amounts; data collection, monitoring, and accountability requirements; eligible activities; subgrantee requirements; and the application review, rating, and award disbursement processes.

Title 25

California Code of Regulations

ADOPT: 7980, 7980.1, 7982, 7982.1, 7982.2, 7982.3, 7982.4, 7983, 7983.1, 7983.2, 7983.3, 7983.4, 7983.5, 7984, 7984.1, 7984.2

Filed 09/08/2009

Effective 09/08/2009

Agency Contact: Lenora Frazier (916) 323-4475

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN April 8, 2009 TO
September 9, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

08/31/09 ADOPT: 1859.324.2 AMEND: 1859.302, 1859.324.1, 1859.330

08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1 AMEND: 647.1, 647.2, 647.3, 647.4, 647.20, 647.20.1, 647.22, 647.23, 647.24, 647.26, 647.30, 647.31, 647.32, 647.33, 647.35, 647.38 REPEAL: 647.25, 647.34

07/30/09 ADOPT: 1899.570, 1899.575, 1899.580, 1899.585

07/20/09 ADOPT: 721

07/07/09 AMEND: 18450.4

07/06/09 AMEND: 18940.2

06/15/09 ADOPT: 18746.4 AMEND: 18741.1, 18746.1, 18746.3

06/12/09 ADOPT: 649.14, 649.17, 649.18, 649.23, 649.25, 649.29, 649.32, 649.33, 649.48 AMEND: 647.4, 649, 649.2, 649.4, 649.7, 649.8, 649.11, 649.12, 649.13, 649.15, 649.16, 649.22, 649.24, 649.26, 649.27, 649.28, 649.30, 649.31, 649.35, 649.36, 649.50, 649.51, 649.57, 649.58, 649.59, 649.62 REPEAL: 649.3, 649.6, 649.9, 649.10, 649.14, 649.23, 649.25

06/09/09 ADOPT: 18405

06/01/09 ADOPT: 250.1

05/21/09 AMEND: 18705.1

05/14/09 ADOPT: 21000, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009

05/08/09 ADOPT: 18410 AMEND: 18402

04/30/09 AMEND: 1859.129, 1859.197
 04/28/09 AMEND: div. 8, ch. 111, section 59560

Title 3

09/09/09 AMEND: 3434(b)
 09/03/09 AMEND: 3434(b)
 09/01/09 AMEND: 3435(b)
 08/28/09 AMEND: 3434(b)
 08/27/09 AMEND: 3435(b)
 08/27/09 AMEND: 3588
 08/26/09 AMEND: 6400, 6502, 6620, 6626(a)–(b), 6626(c), 6627, 6670, 6672, 6736, and incorporated by reference forms
 08/20/09 AMEND: 3406(b)
 08/20/09 AMEND: 3591.13(a)
 08/13/09 AMEND: 3434(b)
 08/13/09 AMEND: 6618, 6619, 6761.1, 6770, 6771
 08/12/09 ADOPT: 902.15
 08/07/09 AMEND: 3406(b)
 08/05/09 AMEND: 3434(b), 3434(c)
 08/04/09 AMEND: 3423(b)
 07/31/09 ADOPT: 3436
 07/24/09 AMEND: 3434(b)
 07/22/09 ADOPT: 3591.23
 07/22/09 AMEND: 3406(b)
 07/21/09 AMEND: 3591.2(a)
 07/20/09 AMEND: 3591.20(a)
 07/13/09 AMEND: 625
 07/07/09 AMEND: 3435
 07/02/09 AMEND: 3423(b)
 06/30/09 AMEND: 3434(b)
 06/22/09 AMEND: 3434(b)
 06/19/09 AMEND: 3591.20(a)
 06/15/09 AMEND: 3406(b)
 06/15/09 AMEND: 3434(b)
 06/01/09 AMEND: 3406(b)
 06/01/09 ADOPT: 3408
 05/26/09 AMEND: 3434(b)
 05/20/09 AMEND: 3434(b)
 05/20/09 AMEND: 3434(b)
 05/13/09 AMEND: 6800
 05/04/09 AMEND: 3434(b)
 04/27/09 AMEND: 3434(b)
 04/20/09 AMEND: 6452.2

Title 4

08/25/09 ADOPT: 12380, 12381, 12384, 12385, 12386 AMEND: 12360
 08/04/09 AMEND: 1853
 07/31/09 AMEND: 10020
 07/31/09 ADOPT: 7051, 7052, 7053, 7054, 7055, 7056, 7057, 7058, 7059, 7060, 7061, 7062, 7063, 7064, 7065, 7066, 7067, 7068, 7069, 7070, 7071

07/21/09 AMEND: 1979, 1979.1
 07/21/09 REPEAL: 1950.1
 06/25/09 ADOPT: 12486
 06/22/09 ADOPT: 8078.1 AMEND: 8070, 8072, 8076, 8078
 06/04/09 AMEND: 106
 05/18/09 ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486
 05/18/09 ADOPT: 12482
 05/12/09 AMEND: 406
 05/12/09 ADOPT: 12591
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 07/21/09 AMEND: 42920
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 07/03/09 ADOPT: 80027.1, 80048.7 AMEND: 80027
 06/29/09 ADOPT: 19821.5, 19825.1, 19828.4, 19837.3, 19839, 19845.2 AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846
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 05/11/09 AMEND: 80023, 80024.4, 80024.5, 80024.6, 80025.5, 80026, 80026.1, 80026.6, 80034.5 REPEAL: 80024.3, 80026.4, 80042, 80042.5, 80569
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05/01/09	AMEND: 4530	05/01/09	AMEND: 2699.6603
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08/04/09	ADOPT: 2355.1, 2355.2 AMEND: 2359.4 amended and renumbered to 2355.3, 2359.7 renumbered to 2355.4, 2359.8 renumbered to 2355.5 REPEAL: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6	07/29/09	AMEND: 599
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		05/26/09	AMEND: 7.00, 7.50
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